



22 CFR Parts 40, 41, and 42

[Public Notice: 11459]

RIN 1400-AF30

Visas: Immigrant Visas

AGENCY: Department of State

ACTION: Request for public input.

SUMMARY: The Department of State (“Department”) seeks public comments identifying barriers that impede access to, and fair, efficient adjudication of, immigration benefits, and recommendations on how to remove those barriers, and identifying any Department actions that fail to promote access to the legal immigration system.

DATES: Written comments must be received on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by RIN 1400-AF30, by either of the following methods:

- *Internet (preferred):* At www.regulations.gov, you can search for the document using Docket Number DOS-2021-0017 or using the notice RIN 1400-AF30.
- *Email:* Claire Kelly, Office of Visa Services, Bureau of Consular Affairs, U.S. Department of State, VisaRegs@state.gov. Please include the RIN or Docket Number in the Subject Line.

FOR FURTHER INFORMATION CONTACT: Claire Kelly, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485-7586.

SUPPLEMENTARY INFORMATION:

I. Public Participation

All interested parties are invited to respond to this Request for Public Input by submitting written views and comments on all aspects of the Department of State's implementation and execution of its authorities relating to the immigrant visa function, including existing regulations, orders, guidance documents, policies, and any other similar agency actions. Comments must be submitted in English or commenters must submit an English translation. Comments that will provide the most assistance to the Department in considering recommendations will reference a specific existing regulation, order, guidance, policy, or any other similar agency action, explain the reason for any recommended change, and include information that supports the recommended change.

II. Background

Executive Order (E.O.) 14012 describes a policy of the Administration to restore faith in our legal immigration system and to strengthen integration and inclusion efforts for new Americans. As a first step to advance this policy, section 3 of the E.O. tasked the Secretary of State, the Attorney General, and the Secretary of Homeland Security with identifying:

- barriers that impede access to immigration benefits and fair, efficient adjudications of these benefits and make recommendations on how to remove these barriers, as appropriate and consistent with applicable law; and
- any agency actions that fail to promote access to the legal immigration system ... and recommend steps, as appropriate and consistent with applicable law, to revise or rescind those agency actions.¹

The Department of State's role in facilitating access to the U.S. immigration system includes the issuance of immigrant visas to eligible individuals outside of the United States. The Department welcomes comments on: (1) any existing barriers that impede access to, and fair, efficient adjudication of, immigrant visas, and (2) recommendations on actions the Department could take to improve access to adjudication of immigrant visas; however the Department is not soliciting comments on administrative processing or communication surrounding administrative

¹ EO 14012, 86 FR 8277 (February 5, 2021).

processing as the Department at this time is unable to alter or improve communication surrounding administrative processing. Additionally, as the Department is already undertaking efforts to address the Immigrant Visa (including Diversity Visa) backlog caused by Presidential Proclamation 10014² and the global pandemic's effect on visa operations, comments on this area are less useful than comments on perceived systemic barriers pre-pandemic. This Request for Public Input is not soliciting comments on areas outside the Department's responsibility, including the functions, roles and responsibilities vested in the Department of Homeland Security, the Department of Labor, or Department of Justice, though the Department is interested in learning whether there are areas of overlap between any of the policies of these agencies and the Department of State that create such barriers, inefficiencies, or that impede access to, fair and efficient adjudication of immigrant visas. The Department is not obligated to respond in any way to comments received in response to this Request for Public Input; however, the Department intends to consider all comments in developing the report to the President required under section 3(c) of E.O. 14012, describing its progress towards implementing a plan to advance the policy set forth in section 1 of E.O. 14012. This Request for Public Input does not create any right for members of the public who submit comments or any obligations for the Department of State.

III. Request for Input

A. Maximizing the Value of Public Feedback

This notice contains a list of questions, the answers to which may assist the Department in identifying aspects of immigrant visa-related processes that may benefit from the Department's review with the goals of eliminating any undue burdens on the public, saving costs for both the public and the Department, increasing navigability, saving time, reducing perceived confusion, promoting simplification, improving efficiency, and/or removing barriers that unnecessarily impede access to immigrant visas. The Department encourages public comment on these

² Proclamation No. 10014, 85 FR 23441 (April 27, 2020).

questions and seeks any other information or data commenters believe are relevant to this notice. The type of feedback that is most useful to the Department will identify specific regulations and/or processes and include actionable information and/or data and/or provide viable alternatives, that meet statutory obligations and regulatory objectives and requirements. Public feedback that simply states that a stakeholder feels strongly that the Department should change its processes but does not contain specific information on what change should be considered or how a proposed change will reduce barriers, or otherwise improve existing processes, is less useful to the Department.

We highlight a few of those points here, noting that the comments that will be most useful to the Department are those that are guided by the below principles. Commenters should consider these principles as they answer and respond to the questions in this Request for Public Input:

- Commenters should identify, with specificity, the regulation, order, guidance document, policy, or other similar agency action at issue, providing the relevant Code of Federal Regulation (CFR) citation if the comment recommends revising a current Department regulation. If a new regulation is being suggested addressing a subject matter that is not currently codified in regulations, it should be identified with as much specificity as possible and with references to the program/process and statutory authority.
- Commenters should provide, in as much detail as possible, an explanation why a Department regulation, order, guidance document, policy, other similar agency action should be modified, streamlined, expanded, or repealed, as well as specific suggestions about how the Department can better achieve its objectives and reduce unnecessary burdens on the public.
- To the extent feasible, commenters are invited to provide specific information on the costs, burdens, and benefits of existing requirements and/or how proposed changes would reduce costs and burdens, and/or increase benefits to the Department or the public. Commenters also are invited to address how the Department can address procedural obstacles to fair and efficient adjudications related to immigrant visas attributable to existing regulations, orders,

guidance documents, policies, and any other similar agency actions, and whether there are existing sources of data that the Department can use to identify and evaluate inefficiencies and unwarranted barriers to accessing the Department's visa-related services.

- Comments should emphasize any unduly burdensome processes that have been in effect for enough time to warrant a fair evaluation, in most cases for more than one year.
- Comments that reiterate substantive issues already raised in public comments submitted on recently issued rules will be less useful, unless they provide new information—by, for example, pointing to new studies or data, or offering novel alternatives.

B. List of Questions for Commenters

The below non-exhaustive list of questions is meant to assist members of the public in formulating input, and is not intended to restrict the input that members of the public may provide:

- (1) Are there any immigrant visa related regulations, orders, guidance documents, policies, or other similar agency actions that you consider to be unjustified or excessive barriers that impede easy access to immigrant visa-related services and fair, efficient adjudication of immigrant visas? For any identified barrier, is the perceived barrier created by duplication, overlap, or inconsistency of requirements?
- (2) Are there any immigrant visa regulations, orders, guidance documents, policies, or other similar agency actions that impose undue burdens on applicants that are not tailored to achieving the Department's objectives?
- (3) Are there any immigrant visa regulations, orders, guidance documents, policies, or other similar agency actions that disproportionately and unreasonably burden disadvantaged, vulnerable, or marginalized communities? If so, please specify the regulations, orders, guidance documents, policies, or other similar agency actions to include citations of any applicable Department regulations, providing a description of the specific burden and the relevant communities.

- (4) Are there immigrant visa regulations, orders, guidance documents, policies, or other similar agency actions for which implementation could be modified to reduce unnecessary administrative burdens? For example, are there regulations, orders, guidance documents, policies, or other similar agency actions, specifically that could be modernized, streamlined, or otherwise improved?
- (5) Is there information you believe the Department currently collects from immigrant visa applicants that it does not need or that is not effectively scoped to information relevant to the adjudication of an immigrant visa application? Are there immigrant visa regulations, forms or other information collections that have been overtaken by technological developments?
- (6) Are there new technologies that the Department should consider leveraging to modify, streamline, or do away with existing immigrant visa regulatory or form requirements?

Additionally, the Department is interested feedback on the following:

(1) Communication --

- a. How could the immigrant visa application system (Consular Electronic Application Center) be improved to make the required steps in the immigrant visa application process clearer? How can the Department better communicate information regarding the status of active immigrant visa cases, what steps the applicant may need to take to advance the case, and when the case will be scheduled for interview?

(2) Websites --

- a. If you consulted nvc.state.gov to learn about the immigrant visa process, what could be improved about it?

- b. If you have used the country-specific document finder tool (reciprocity)³, how could it be improved? If you have used post-specific interview instructions found on individual post's websites, what could be improved about them?
- c. Are there aspects of visa appointment scheduling the Department should consider modernizing, streamlining, or otherwise improving? Detailed suggestions are most helpful.

Instructions: If you submit a comment, you must include the agency name, Department of State, and RIN 1400-AF30 for this request for public input in the title or body of the comment. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and therefore will include any personal information you provide. Therefore, because all submissions will be public, you may wish to consider limiting the amount of personal information that you provide. The Department of State may withhold from public viewing information provided in comments that it determines may infringe privacy rights of an individual or is offensive. For additional information, please read the Privacy Act notice available in the footer at <http://www.regulations.gov>.

Zachary A. Parker,

Director,

Office of Directives Management,

Department of State.

Billing Code: 4710-06

³ <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country.html>

